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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,323	01/26/2001	Yoshio Uchikata	1272.C0442	5132

5514 7590 09/17/2002

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NEW YORK, NY 10112

EXAMINER

NOLAN JR, CHARLES H

ART UNIT	PAPER NUMBER
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2854

DATE MAILED: 09/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

### DETAILED ACTION

1. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

### *Response to Amendment*

2. The reply filed on 5-21-02 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): See paragraph 3 hereinbelow. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

3. Applicant argues in the response dated 5-21-02 that they are not incorporating essential subject matter from the foreign application into the instant application. However, the exact language used in the instant application is "This application is based on patent Application No. 2000-17568 filed January 26, 2000 in Japan, the content of

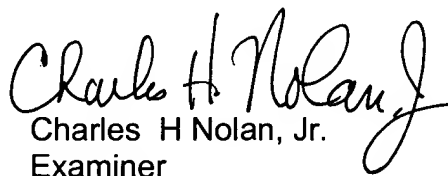
Art Unit: 2854

which is incorporated hereinto by reference." [Emphasis added]. It is noted this language means that both essential and non-essential matter is included from the foreign application. The Examiner need not show whether the matter incorporated from the foreign application is essential because the precise language used by Applicant clearly states that all matter is being incorporated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H Nolan, Jr. whose telephone number is 703-308-0961. The examiner can normally be reached on Monday through Thursday 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 703-305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

  
Charles H Nolan, Jr.  
Examiner  
Art Unit 2854

CHN  
September 12, 2002